

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7479 of 2005

Between:

Sri Sachidanandendra Saraswathi Tirdha Vidya Parishad, Ravicherla village,
Nuzvidu Taluk, Krishna District, rep.by its Treasurer, Burra Radha Krishna Murthy,
S/o.B.V.Ramana, R/o.D.No.1-8-20A, Daitha Vari Street,
Railpet, Bapatla, Guntur District.

..... PETITIONER

AND

- 1 The Collector, Krishna District, Machilipatnam.
- 2 The Revenue Divisional officer, Nuzivid, Krishna District.
- 3 The Mandal Revenue officer, Agiripalli, Nuzividu Taluk, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the 3rd respondent's notice, dated: Nil, issued to the petitioner under sec.7 of A.P.Land Encroachment Act, 1905 as illegal and misconceived and pass such other order or orders.

Counsel for the Petitioner:MR.KOTASAMEER KUMAR

Counsel for the Respondents: GP FOR REVENUE

This Court at the admission stage made the following :

ORDER :

This writ petition is filed seeking a declaration that the Notice dated 24-3-2005 issued by the third respondent – Mandal Revenue Officer, Agiripalli, Nuzvidu Taluk, Krishna District, under Section 7 of the A.P. Land Encroachment Act, 1905 as arbitrary and illegal.

It is claimed that an extent of Ac.2.27 cents of land situated in Sy.No.125/5 of Adivinekkala village, Agiripalli Mandal was acquired by the petitioner by virtue of a Registered Will dated 30-10-1976 executed by one Sri Kota Sriramulu, who died in the year 1980. It is also stated that from the date of delivery of possession of the said land, the petitioner has been cultivating the same by paying tax to the Government. While so, on 24-03-2005 the impugned notice which was issued in the name of late Kota Sriramulu was served on the petitioner alleging that the petitioner is in unauthorized possession of the land to an extent of Ac.0-51 cents and Ac.1.48 cents situated in Sy.Nos.125/5 and 125/16 respectively and calling upon the petitioner to show-cause as to why they should not be evicted from the said land. Since the extent of the land is in possession of the petitioner and the survey numbers do not tally with the description of the land in the impugned notice, the petitioner visited the office of the third respondent and requested for clarification. However, they did not respond. On the other hand, the staff of the third respondent has been threatening to dispossess the petitioner from the land in their occupation . Aggrieved by the said action, this writ petition is filed.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

As can be seen from the material on record, the impugned notice was only a show-cause notice issued under Section 7 of the A.P. Land Encroachment Act, 1905. Therefore, the third respondent is bound to consider the explanation of the petitioner in response to

the said impugned show-cause notice and pass appropriate orders in accordance with law. Till such orders are passed, the petitioner cannot be dispossessed from the land in question.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of granting liberty to the petitioner to submit its explanation in response to the impugned show-cause notice within a period of two weeks from the date of receipt of this order. In the event of submission of any such explanation within the time specified above, the respondents shall consider the same and pass appropriate orders under Section 6 of the Act. Till such orders are passed, the respondents shall not interfere with the possession of the petitioner in respect of the land-in-question. No costs.

(G. ROHINI, J)

Date: 07-04-2005

ghn

To

- 1 The Collector, Krishna District, Machilipatnam.
- 2 The Revenue Divisional officer, Nuzivid, Krishna District.
- 3 The Mandal Revenue officer, Agiripalli, Nuzividu Taluk, Krishna District.
- 4 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad.
(O.U.T.)
- 5 Two CD copies.